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10 January 2020

Senator Glenn Sterle  
Chair  
Senate Standing Committees on Rural and Regional Affairs and Transport  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Chair,

**Re: Responses to Submissions to the Senate Economics References Committee Inquiry into the Performance of the Australian Dairy Industry**

Dairy Australia appreciates the opportunity provided by the Committee to respond to adverse comments received in other submissions provided to the inquiry.

This response will address the specific concerns raised in submissions by Farmer Power and Mr Ashworth and refer to factual evidence as appropriate including the last independent performance review of Dairy Australia.

Section 18.5 of the Statutory Funding Agreement between Dairy Australia and the Commonwealth requires Dairy Australia to undertake an independent review of its performance against the requirements of the Funding Agreement. The terms of reference require the approval of the Department of Agriculture and this includes matters such as consultation with levy payers and governance. The results of the review must be to the satisfaction of the Department and must be completed prior to renegotiation of any subsequent funding agreement.

The last review completed in 2017 concluded:

*Dairy Australia has met all of the obligations of its SFA. Corporate governance is strong, the Board and management are highly competent and the company's processes are robust. Some features of the business, such as the RDPs and Dairy Australia's strategic RD&E collaborations, may serve as a model for other industries. There is evidence of the company creating value for dairy farmers, although the difficulty of communicating the benefits delivered by Dairy Australia is recognised.*

Of the four minor issues requiring focus from the review, an update was provided to the Department's satisfaction in October 2019 – refer Appendix 2. The next independent review is scheduled to be completed in 2020 and will provide an updated position and assessment of performance.

An outline of the key issues in the Farmer Power and Ashworth submissions and Dairy Australia's response including reference to the last independent performance review findings are outlined below with a more detailed response to the individual issues included in Appendix 1.

### 1.1 Claim that there is not independence of the Board and directors:

The submissions claim there are concerns about conflicts of interest and the level of processor involvement particularly in regard to director selection.

Dairy Australia has a skills-based board, with directors nominated and then elected based on their capacity to govern a company limited by guarantee, with objects of the company as follows (Constitution section 5.1):

- a) to promote the development of Australian dairy resources; and
- b) to contribute to the promotion and development of the Australian dairy industry and Australian dairy produce by:
  - i) carrying out research, development and extension activities for the benefit of the Australian dairy industry and the Australian community generally; and
  - ii) carrying out activities to develop the Australian national market for, and international trade in, Australian dairy produce; and
  - iii) providing information and other services; and
  - iv) carrying out other activities for the benefit of the Australian dairy industry; and
- c) to act as industry services body for the purposes of the Dairy Produce Act.

The role of a Dairy Australia director is to pursue the objects of the company. Dairy Australia is not a representative organisation (such as Australian Dairy Farmers or Farmer Power) where the requirements for independence to hold a representative role are different.

In line with Principle 2 of the ASX Corporate Governance Principles and Recommendations (4<sup>th</sup> edition), the board should be of an appropriate size and collectively have the skills, commitment and knowledge of the entity and the industry in which it operates, to enable it to discharge its duties effectively and to add value. To ensure the best interests of the dairy industry are reflected, the Dairy Australia Constitution (s. 26) requires that the Board:

- a) as a whole has an appropriate balance of skills and experience, having regard to the nature of the business and affairs of the company; and
- b) has at least four directors with milk producer skills (such skills being determined by the Board from time to time).

These skill and experience requirements are achieved by the Constitutional process (outlined in section 28) which includes an annual review of the board skills matrix which forms the basis of assessing the required skills against the current skills taking into account director retirements to form the basis of the next annual director candidate process.

In respect to claims regarding processor involvement in director selection, directors can be nominated for election in two ways:

- by the Board Selection Committee to identify candidates to fill designated skill vacancies. An independent executive search firm assists with this exercise.
- through a nomination supported by 100 or more Group A levy paying farmer members.

Board candidates selected through either process require at least 50% of votes by levy paying members to be elected to the Board. The model of Board Selection Committee composition and voting rights are largely consistent with other research and development corporations with representation by farmers, processors and an individual director as Chair.

Dairy Australia has a clear process to manage conflicts of interest including a Code of Conduct and directors abstaining from decisions where an interest arises. To ensure no one person or group can exert undue influence, resolutions passed by the company require a majority to vote in favour of the decision including:

- As per section 21.7 of the Dairy Australia Constitution, a majority of directors are required to vote in favour of a decision for the Board to pass a resolution. Directors with a conflict must abstain from decisions in which they have a conflict of interest.
- Constitutional changes and directors standing for election require more than 50% of Group A levy paying farmers to vote in favour for the resolution to be passed.

Funding by the Commonwealth for eligible R, D & E expenditure provided under the Statutory Funding Agreement is also dependent on no conflict of interest being likely to arise regarding performance of obligations under the agreement.

In respect to governance and management of conflicts, the last independent performance review noted:

*Dairy Australia has a highly competent, experienced, diligent and cohesive board, with a strong industry background, and widespread respect among stakeholders. A number of the directors sit on other boards including several of direct relevance to Dairy Australia including Bega Cheese and Murray Goulburn Cooperative (MGC). This provides Dairy Australia with an invaluable industry pipeline perspective. Interviewees for this review indicated that board meetings are well planned and efficient. Management of conflict of interest at board level is a strength and there is an item dedicated to conflict of interest on all board agendas. There is good discussion of all topics and directors are provided with every opportunity to participate.*

#### 1.2 Questioning of relevance of services provided to levy payers and extent of consultation:

Mr Ashworth noted that he “farmed at Cobram milking 280 cows before leaving the industry in 2007, in the years I farmed there was never any consultation by DA”.

Farmer Power commented that they believe “there is a continuing investment of funds into projects. It is submitted, that these projects are not economically viable on dairy farms in the current economic environment which has been created and under which dairy farms are currently operating within.”

As outlined in the original submission, to ensure effective prioritisation and relevance of services to dairy farmers, Dairy Australia:

- continues to consult with Group B members as required, including consultation with Australian Dairy Farmers on Strategic Plans and Annual Operating Plans.
- has established regional offices in each key dairy region responsible for identifying and understanding the local priorities.
- introduced a tailored services program to identify dairy farmers with common characteristics. Whilst services provided by Dairy Australia are made available to all farmers, an understanding of those with common needs, can allow these services to be effectively tailored, delivered and communicated in a way that is relevant to farmers. It is to be expected that certain programs will be more relevant to some farmers rather than others.
- introduced the large supplier engagement program to ensure the specific needs of larger dairy farms are understood and addressed given increased farm consolidation.

The last independent performance review noted:

- *the dairy industry is well served by RD&E and policy advisory structures, although most of these are not ‘owned’ by Dairy Australia but rather by the broader industry, which is a positive feature. These structures provide a variety of mechanisms to engage with farmers of various sizes, locations and enterprise types as well as other industry players.*
- *that the process of negotiating the regional plans enables an adequate degree of regional prioritisation while maintaining alignment with national strategies.*
- *Dairy Australia uses a range of mechanisms to provide opportunities for all farmers to engage with the company. The RDPs, as described above, are an important means of engagement with all levy payers and also other industry stakeholders in the regions.*

It is acknowledged that dairy farmers may not always associate the benefits and outcomes they receive as being associated with Dairy Australia. This includes:

- the outcomes of initiatives undertaken by Dairy Australia may not be associated as being funded or initiated by Dairy Australia. On farm examples include improved pasture breeding that comes via a seed company, improved genetic evaluation and traits that are delivered via a semen provider or improved nutrition/rations that are implemented and sold through a feed mill – all of these improvements come from direct Dairy Australia investment over a long period.
- dairy farmers may not associate their local regional office (RDP) with Dairy Australia (the latter who funds all eight Australian RDPs).
- dairy farmers who do not wish to engage with extension programs, priority discussion groups may not feel they are receiving benefit however they will still benefit from programs such as market development activities, addressing consumer concerns and presenting an industry sustainability framework – all which underpin the favourable trading environment for dairy products.

### 1.3 Accuracy of statistical data:

In our original submission regarding terms of reference (b) we focused on the issue of milk production data and the challenges of a complete and timely dataset given the movement in milk supply arrangements and voluntary data provided by processors. Submissions to the inquiry have highlighted concerns about data collected through the Dairy Farm Monitor Project reflecting dairy farm profitability not being representative of the industry.

Both the Ashworth and Farmer Power submission raised the issue of Dairy Australia not accurately describing the state of the Australian dairy industry in its reports that are either released publicly and/or provided to the Federal Government.

All statistics collected and published by Dairy Australia (such as the In Focus report) include quality control measures to ensure that the data is as complete and accurate as possible. It is important to note that much of the key data provided by farmers and processors is provided on a voluntary basis. The limitations of this voluntary data are recognised with appropriate disclaimers included in relevant reporting. Further to the original submission, the Committee may wish to consider mandating data reporting requirements if more complete information is required.

The Dairy Farm Monitor project is a comprehensive monitoring program of farms in all eight dairying regions that have volunteered to take part. The farms demonstrate wide variations in performance in each region, and due to the intensity of data collection, are a small subset of farms. The data is used for benchmarking and comparison purposes, not as a statistical representation of performance in each region. We recognise the important contribution of state governments in some regions that resource on-farm activities and ensure there is strong data integrity.

### 1.4 Questioning regarding Dairy Australia's effectiveness in influencing milk price

The Farmer Power submission contends that "Dairy Australia activities are not in the best interests of dairy farmers as none of its research activities have addressed the key concerns of farmers about farm gate price, direct sale to consumers or the elimination of restrictive industry practices. "

Dairy Australia is the national services body for the dairy industry. We are focused on supporting the profitability and sustainability of dairy farming by providing practical tools, services and advice that assist farming operations and the dairy supply chain.

Dairy Australia does not have a role in price setting or the commercial arrangements between farmers and processors, however we do undertake activities that help to secure and enhance demand for Australian dairy products and remove costs from the supply chain that can erode margins.

For example, Dairy Australia undertakes promotional activities in the domestic and international markets that reinforce a consumer preference for Australian dairy products and assist to protect the industry from key threats to the ongoing demand for our products. The Dairy Matters campaign is a current example of where Dairy Australia resources are being allocated in a way that is designed to address some of the emerging questions by consumers about the sustainability credentials of our industry. If not addressed, these issues could have a tangible impact on the future demand for dairy.

#### 1.5 Questioning regarding the levy mechanism

Farmer Power noted the following in their submission:

*Dairy farmers have the right to disapprove proposed increases in the levy that is paid to Dairy Australia (by way of its constitution) and did so in 2012. Since this time the levy setting mechanism has been changed and the accountability by Dairy Australia aimed at securing its funding.*

In 2014, the Dairy Australia Board appointed an Independent Panel to consult with dairy farmers and industry to inform a review of the Levy Poll process. This was as the result of feedback that the levy poll process was expensive and time consuming, particularly in circumstances where no change to the level of the levy was being sought. At this time a levy poll costing up to \$750,000 was required to be held at least every three to five years, irrespective of whether a change was proposed or not.

It was recommended that:

- a vote on the amount of the Levy only be held when a change in the Levy or its procedures is proposed by an industry led Levy Poll Advisory Committee, which must consider the amount and application of the Levy at least every five years.
- provision was allowed for a group of levy payers to initiate a poll if they disagreed with an Advisory Committee recommendation of no change.

This revised process was voted on and supported by 89.95% of Dairy Australia levy payers who voted and the changes came into effect in 2016. (Refer Appendix 3a and 3b)

Under the current Levy Poll process, a vote on the Levy will be initiated when:

- a change in the Levy or its procedures is proposed by the industry Levy Poll Advisory Committee; or
- a petition request is received by Group A members to request Dairy Australia conduct a levy poll if they disagree with the Levy Poll Advisory Committee's decision not to convene a poll. The petition must be "supported by Group A member signatories who together represent at least 15 per cent of the total amount of dairy service levy paid"

Refer: <https://www.legislation.gov.au/Details/F2016L01999/Explanatory%20Statement/Text>

The Levy Poll Advisory Committee must again review the amount and application of the Levy - the process is to be concluded with a recommendation to the Minister by December 2021.

It is also noted that there will be opportunities to modernise and streamline levies legislation through the Department of Agriculture's current levy modernisation initiative:

Refer: <https://www.agriculture.gov.au/ag-farm-food/levies/levies-process-reform>

#### 1.6 Questioning regarding the investment with DeLaval

Both the submissions by Ashworth and Farmer Power discuss concerns about Dairy Australia's relationship with DeLaval regarding robotic milking including class actions in America and the economic viability of these systems in Australia.

DeLaval is a large global supplier of milking equipment, including automatic milking systems. They had a commercial interest in supporting development of automatic milking in grass-based farming systems.

Dairy Australia co-invested in a project with the University of Sydney (along with the NSW government and DeLaval) - called Future Dairy (<http://futuredairy.com.au/futuredairy-project/>). There were multiple phases of this investment that commenced in 2004. All parties invested jointly in the University project, recognising the academic independence and responsibility of the University for research, development and education activities. All parties had a role on the steering committee and actively contributed to the development of farm management systems that are in use on farms that use automatic milking (regardless of the brand of machines used).

DeLaval generously provided equipment for use by the University, and in turn, was able to test prototype equipment for use in Australia. This was a valuable partnership, as the research required access to modern equipment and comprehensive technical support.

The research project did not recommend or provide preferential opinions about commercial equipment, as this was the individual choice of farmers. In fact, farmers have chosen from multiple suppliers. Dairy Australia also did not provide recommendations or provide preferential opinions about commercial equipment.

The Future Dairy project finished in 2017 and subsequently the Milking Edge program started, managed by the NSW Department of Primary Industries (see <https://extensionaus.com.au/automaticmilkingystems/milking-edge-new-australian-robotic-milking-project/>). This is a current project and involves all four investment partners from Future Dairy. The project focuses on providing extension material for farms considering automatic milking systems for their farm, the decisions they need to take into account and how to assess their suitability. It also provides information for current automatic milking system farms and how to maximise their productivity. As part of the Milking Edge project, an economic analysis is being undertaken of automatic milking systems in comparison to conventional systems through the University of Sydney.

#### 1.7 Other assertions

It is noted that a number of assertions have been made in various submissions provided to the Inquiry. Our response focuses on responding to the substantive issues in the two submissions we were provided an opportunity to respond to (Farmer Power and Ashworth). Dairy Australia would be happy to assist in providing further information as required in response to any other submissions.

#### 1.8 Australian Dairy Plan

As referenced in various submissions and further to Dairy Australia's original submission, it is recommended the Committee refer to the draft Australian Dairy Plan which has now been released by industry. We understand the Secretariat of the Australian Dairy Plan has provided a copy of the draft Australian Dairy Plan to the Committee and we also refer the Committee to the structural change recommendations from the independent taskforce which will be released in late January 2020.

The plan is an important industry document, demonstrating the commitment of multiple organisations to lead and improve the profitability, confidence and united purpose of the dairy industry. Dairy Australia is committed to supporting the delivery of the plan, and in doing so will generate significant value for the industry.

Yours sincerely,

Sheridan Verwey  
**Company Secretary**

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#	Submission reference	Submission detail	Dairy Australia Response
2.1	Data  Ashworth p.2  Farmer Power p.2	<p>The funding provided by the government is contingent on a positive dairy industry. For the last 16 years Dairy Australia has reported to the relevant incumbent minister for each reporting period that there is nothing wrong with the industry, this information collected by Dairy Australia comes from subsidiaries and Group B members, it is in their vested interest to portray a positive buoyant industry regardless of what actually happens in the real world.</p> <p>Since 2003 I have challenged Dairy Australia publicly to prove the accuracy of their information. They have failed to do so repetitively.</p> <p>Dairy Australia does not accurately describe the state of the Australian dairy industry in its reports that are either released publicly and./or provided to the Federal Government.</p>	<p>Refer section 1.3 which outlines that appropriate disclaimers are provided as relevant where information is based on voluntary data provision. The Situation Analysis and Situation and Outlook reports provide regular updates on the state of the dairy industry.</p> <p>Dairy Australia is happy to assist answer any other questions regarding the accuracy of information.</p>
2.2	De Laval  Ashworth p.5  Farmer Power pp.2-3	<p>DeLaval is facing a class action in America for allegedly misleading farmers into buying robotic milkers which did not perform as advertised. It is known that this situation also exists here in Australia. It cannot be determined from the annual report what funding has been spent to support DeLaval, nor is it known how much DeLaval has contributed (this would require access to the financial statements) but why would Dairy Australia continue their association while there is this legal action, let alone continue to invest funds into projects that are not economically viable on every dairy farm in this failing environment they've created? Information is very hard to find that covers this area but it has been published that Dairy Australia has spent \$2 million over the last three years trying to slow the rate of dairy farmers abandoning robotic milking<sup>1</sup>, that's not their responsibility.</p> <p>Farmer Power is aware of several issues relating to this relationship with current court actions underway with some confidential settlements already being completed. We are also aware DE Laval is facing a class action in the United States of America for allegedly misleading farmers into buying robotic milkers which, it is claimed, did not perform as warranted or advertised. We believe that a similar situation also exists within Australia.</p> <p>The question that arises is: • If Farmer Power is aware of these perceived issues and, as we understand, so is Dairy Australia, then why would Dairy Australia</p>	<p>Refer section 1.6 regarding details of the DeLaval investment. Examples of successful adoption include:</p> <p><a href="https://www.weeklytimesnow.com.au/agribusiness/dairy/garry-and-bev-carpenter-advocates-for-automated-milking-systems/news-story/20a641697b2f34b5952fede574369d11">https://www.weeklytimesnow.com.au/agribusiness/dairy/garry-and-bev-carpenter-advocates-for-automated-milking-systems/news-story/20a641697b2f34b5952fede574369d11</a></p>

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		<p>continue their relationship/association with De Laval while there is legal action underway and pending within the United States and Australia.</p> <p>It has been reported (in the Weekly Times on or about 15 May 2019) that Dairy Australia has spent \$2 million over the last 3 years trying to slow the rate of dairy farmers abandoning robotic milking, Farmer Power would ask the question 'Why'?</p> <p>We also refer the Committee to the following link:  <a href="http://www.thebullvine.com/news/robotic-milking-dairy-aus-spends-2m-to-stopfarmers-giving-it-up/">http://www.thebullvine.com/news/robotic-milking-dairy-aus-spends-2m-to-stopfarmers-giving-it-up/</a>.</p>	
2.3	Membership (Ashworth - App 1 p.7)	Group A members are the dairy farmers. THEY have to APPLY to become a member, only then can they vote, (CDairy Australia 9.1)	This requirement to apply to become a member has been raised before by dairy farmers. A current legal view on this has been obtained. Refer Appendix 4.
2.4	Members – resolutions (Ashworth p.7)	Group A members CANNOT move resolutions unless the following occurs, the member holds a minimum of 5% of the votes or there are at least 100 members who are entitled to vote at a general meeting, (CDairy Australia 12.3(f)(ii))	This is consistent with the requirements of the Corporations Act (2001) s249N.
2.5	Group A member – rights (Ashworth p.7)	Group A members do NOT get consulted by the Dairy Australia board on company matters, ☐ they CANNOT appoint directors, ☐ they need to be nominated by AT LEAST 100 GROUP A MEMBERS in an attempt to gain selection as a director, (CDairy Australia 29.3)	<p>Refer consultation section 1.2.</p> <p>Refer director appointment process section 1.1. Director nominations are provided by the external Board recruitment process using an independent search firm or via approval from 100 or more Group A members.</p> <p>Directors are appointed only if a majority of Group A members support the election at the AGM or via Board appointment of a casual vacancy.</p>
2.6	Group B members (Ashworth p.8)	Group B members CAN appoint directors, (CDairy Australia 29.2 (a)) ☐ The 5 members allocated to the Selection Committee for the 17/18 financial year were all B Group members, 1 Chair and Dairy Australia representative, 2 nominee's from ADF and 2 nominee's from ADPF. ☐ they ARE NOMINATED to board positions by the Board appointed selection committee, (CDairy Australia 29.2 (a))	Group B members do not appoint Dairy Australia directors. The process is for a Board Selection Committee to be appointed (membership is usually one Dairy Australia nominated representative, with two representatives nominated by ADF and two representatives by ADPF – a total of five members) to review appropriate candidates recommended by an independent search company. Final nominees from the Board Selection Committee are presented to Group A members to vote on their appointment at the Dairy Australia AGM. To be appointed as a Director, nominees must achieve a majority of



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			Group A member votes. Group A members can nominate a candidate for the Dairy Australia Board (independent of the Board Selection Committee) if they have 100 signatures from Group A members endorsing the nominee. The same process for voting at the Dairy Australia AGM also applies to these nominees.
2.7a	Conflict of interest (Ashworth p.9)	<p>There is in place, within Dairy Australia, a Code of Conduct Policy, part 5 deals with Conflict of Interest and it states, “Directors must obtain the Chairman’s, and all other employees their manager’s, permission to serve in any capacity in another business, company or organisation if there is a possibility of an actual or perceived conflict of interest.”</p> <p>As we see the directors must obtain the permission of the chair on the grounds of ‘if there is a possibility of an actual or perceived conflict of interest’, what is a ‘possibility’ is not defined.</p>	Refer section 1.1. Dairy Australia has a clear process for managing conflicts of interest (actual or perceived). A Director has the responsibility (Under the Corporations Act) to determine if they believe they may have a conflict of interest either actual or perceived – and duly notify the Chair. A skills- based board with knowledge of dairy farming, agriculture etc is important to ensure a wide cross section of views and expertise are available to Dairy Australia, providing value to levy payers and members although it does open up the possibility of conflicts of interests depending on the issues being discussed. Director responsibility regarding Conflict of Interest is one that is required by all boards.
2.7bc	Conflict of interest (Ashworth pp.9-10)	<p>Now, Mr Odgers is on both sides of the same coin, as a director of two corporations in the same industry but on opposing sides, he has a material personal interest in the subject matter of both organisations. Take for example the Mandatory Dairy Code of Conduct that the government is seeking to implement, as a director he is obligated to act in the best interests of Bega, the processor, yet any form of consultation by Dairy Australia on the matter he becomes obligated to act in the best interests of the farmer.</p> <p>Two other current directors, David Lord and Tania Lukin have also been directors of group B members.</p> <p>David Lord has been a director of three different milk processors, most recent Chief Operating Officer at Saputo, how can it be seen that he will put the interests of the farmers before that of the processor when he has spent his career acting in the best interests of the processor?</p>	<p>Directors understand their duties under the Corporations Act including the impact on their careers due to the liability of directors in not abiding by these duties.</p> <p>Use of the term “possibility” assists to ensure that any possible conflict issues are discussed and addressed rather than a conflict not being raised if the director does not believe there is a conflict. This process enables an independent perspective on whether an actual or perceived conflict does exist so that it can be managed in line with the conflict management process.</p>
		As noted above, the selection committee for the 17/18 financial year consisted of five group B members. These members, who may differ from year to year, are responsible for the selection of the directors as stated. It was released by Dairy Australia in September this year that there were three endorsed candidates for board nominee at the 2019 Annual General Meeting, Jeff Odgers and Prof Paul Wood both for re –election and Josephine Rozman. Based on previous events these nominees will get elected (CDairy Australia 29.2 (a)).	

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		<p>Josephine Rozman is a career director, she is also an employee of Aroona Farms, this in itself has already raised a massive amount of concern with dairy farmers. Once again it is seen as arrogance that Dairy Australia's board favours itself, having no regard nor respect for the Group A members.</p> <p>As we've seen above with Mr Odgers, with the appointment of Josephine Rozman there is a real possibility of an actual or perceived conflict of interest' due to the very nature of the almond business.</p> <p>The product of almond 'milk' is widely advertised, it is inconsequential as to whether or not there is a direct link to Aroona Farms, that product, which is NOT MILK, competes directly with the market of the dairy farmers.</p>	
2.7c	Power (Ashworth p.10)	<p>So in essence the current constitution of Dairy Australia gives all power to the processors and negates the ability of Dairy Australia to act independently and serves to protect the interests of the Dairy Australia board not its members.</p> <p>The constitution needs to be rewritten to reflect the needs of the Group A members, give Group A members the right to vote without having to apply, enforce Section 232 of the Corporations Act to stop oppression of the minor shareholders ie remove the quantity vote and replace with one vote per Group A member, remove the conflict of interest where one member belongs to the two groups by prohibiting voting interests, reconsider the rights of Group B members etc</p>	Refer sections 1.1 and 2.7a & b. The Constitution outlines the roles and responsibilities of the Board and how Dairy Australia is governed. We are not aware of any sections in the Dairy Australia Constitution that provides all power to the processors.
2.8	Expenditure (Ashworth p.11)	Expenditure on any form of benefit for the farmers is seriously compromised from the start, of the obligatory amount, approximately 50% is committed in paying the employment costs of Dairy Australia, if the government didn't provide those additional funds Dairy Australia would cease to exist.	As per the financial report for financial year ending 30 June 2019, total employee benefit expenses equated to \$14.7m or 25% of Dairy Australia's revenue from the levy and matching R&D funds.
2.9	R&D (Ashworth p11)	It must be remembered that one main purpose for the establishment of Dairy Australia was to invest in research and development (R&D) for the benefit of dairy farmers. Dairy Australia hasn't performed one piece of original R&D. They have simply rebadged others work as their own. ¶ The financial statements make it very hard to ascertain exactly how much has been spent on research and development.	Dairy Australia does not undertake research in its own right, it commissions research to be undertaken on behalf of dairy farmers and the dairy industry as a whole to ultimately benefit dairy farmers. The majority of the research conducted is a co-investment with the relevant research body, usually a state government or university. This is an efficient and effective way to maximise levy funds as it can tap into many varied resources and work with leading organisations both within Australia and overseas. It also allows flexibility by not having long term specific skilled resources focused on only a few issues

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			<p>External auditors Deloitte independently attested to the R&amp;D funding being in line with the SFA requirements on an annual basis. The publicly available annual report and performance reports provide further details on R&amp;D expenditure and outcomes.</p> <p>Dairy Australia as the industry service organisation also invests in opportunities that benefit the whole industry and ultimately dairy farmers – e.g. capable people, trade and marketing and communications.</p>
2.10	Large suppliers  (Ashworth p.11)	Consultation with suppliers is not on an equal basis. Dairy Australia has a dedicated program to engage one group of farmers. It's detailed in the Dairy Australia 3 Year Strategic Plan Revised 2016/17 to 2018/19 Revised June 2017, and called the P200 Large Supplier Engagement. This program is designed to engage with the largest 200 dairy farmers. Yearly expenditure for this program has increased from \$50,000 to \$100,000 in the last 3 years.	<p>Farmers managing larger herds (large suppliers) have different needs for their business than small-medium sized herds. These differences relate predominantly to aspects of the business such as governance, employment and regulations that are unique to running a larger business. Operational matters such as time spent milking, herd effects of animal health and nutritional management are also different. The Large Supplier program is focused on this group of levy payers and puts together activities and discussion groups that cover topics relevant to these larger-scale businesses.</p> <p>Dairy Australia's engagement efforts focus on all dairy farmers. Through our regional extension programs, the aim is to ensure that local needs and issues are identified and that Dairy Australia programs are made available to all dairy farmers.</p>
2.11	Large producers (Ashworth p.11)	As stated on page 27, Dairy Australia's Regional Operations and Extension, Project Level Objectives – Ensure Dairy Australia services meet the needs of large producers.	
2.12	Key concerns (Farmer Power p.1)	Farmer Power has formed the considered view that the current Dairy Australia activities are not in the best interests of dairy farmers as none of its research activities have addressed the key concerns of farmers about farm gate price, direct sale to consumers or the elimination of restrictive industry practices.	Refer section 1.4.
2.13	Dairy processors (Farmer Power p.1)	<p>Dairy processors do not contribute to the operational costs of Dairy Australia, but they appear to be over-represented on the Board of Dairy Australia.</p> <p>Dairy Australia's constitution is such that the dairy processors (both Australian and international) as well as major industry bodies have undue influence in the selection of board members. It should also be noted that Farmer Power is of the view that several the Dairy Australia board members are perceived as having conflict of interests.</p>	<p>Refer sections 1.1 &amp; 2.7.</p> <p>There is currently no legislative instrument to mandate contributions by processors to Dairy Australia as the industry services body. This is a recognised issue and will be addressed via the Australian Dairy Plan.</p> <p>Processors do contribute and support dairy farmers through activities such as contributing to the manufacturing Innovation</p>

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			<p>webinar series, running workshops and insights into policy, trade and marketing programs.</p> <p>Only one director currently has processing and dairy farm interests whilst no other directors have processor interests. With Board resolutions requiring a majority of directors to vote in favour, processor interests cannot be over- represented.</p> <p>All directors are aware of their fiduciary responsibilities as directors including managing conflicts of interest. A skills-based board provides benefits to members by ensuring their needs are understood and represented.</p>
2.14	Levies (Farmer Power pp.2-3)	<p>Dairy farmers have the right to disapprove proposed increases in the levy that is paid to Dairy Australia (by way of its constitution) and did so in 2012. Since this time the levy setting mechanism has been changed and the accountability by Dairy Australia aimed at securing its funding.</p> <p>Farmer Power disputes the findings of this supposed consultation which took place producing the outcomes it claims. The legislation covering the levy made be found at: <a href="https://www.legislation.gov.au/Details/F2016L01999/Explanatory%20Statement/Text">https://www.legislation.gov.au/Details/F2016L01999/Explanatory%20Statement/Text</a></p>	Refer section 1.5 & Appendix 3.
2.15	Independent review (Farmer Power p.2)	A review of Dairy Australia conducted in 2012 was claimed to be “independent”. However, this review was internally commissioned, controlled and conducted by personnel who have perceived close ties with Dairy Australia. It is to be regretted that the levy payers, being the dairy farmers, had very limited input to this review.	Terms of reference for the independent performance reviews required approval by the Department of Agriculture. Dairy Australia is happy to respond to any facts raised regarding close ties.
2.16	R&D (Farmer Power p.2)	Farmer Power also believes that there is a continuing investment of funds into projects. It is submitted, that these projects are not economically viable on dairy farms in the current economic environment which has been created and under which dairy farms are currently operating within.	Investment of funds is outlined under the Funding Agreement and takes into account the needs of farmers with different needs. Refer sections 1.2, 2.10.
2.17	Return on levy  Ashworth p.12	In 2011 Mr Ian Halliday, the then Managing Director of Dairy Australia, had the arrogance to declare that, for every \$1 levy raised the result was a \$3 return. Why is this relevant, simply, the minister at the time chose to do nothing to challenge this statement even though they have a duty of responsibility to the farmers to hold Dairy Australia accountable.	In 2011, the Centre for International Economics conducted an evaluation of the impact of government and industry pre-farm gate RD&E investment over the past 30 years on Australia and Victoria’s dairy industries. The project was jointly commissioned by the Department of Primary Industries and Dairy Australia.

## APPENDIX 1: RESPONSE TO INDIVIDUAL COMMENTS IN FARMER POWER & MR ASHWORTH SUBMISSIONS

	Farmer Power p.3	<p>Secondly, the minister failed to question why, on the basis of a 300% return, why wasn't there a rush of investors into the dairy industry, instead of what reality showed as a greater exit by existing farmers.</p> <p>Dairy Australia has claimed that it delivers at least \$3 in value to dairy farmers for every \$1 it collects by the compulsory levy.</p>	<p>The independent analysis concluded a benefit to cost ratio of 3.3: 1 on levy payer funds.</p> <p>Prior to this, an independent review was undertaken by BDA of Dairy Australia's investment projects supporting with similar results.</p>
2.18	Programs (Farmer Power p.3)	<p>Dairy Australia has previously admitted that its programs only reach around 40% of farmers with farmers receiving around \$7 in value for every \$1 of levy they pay.</p> <ul style="list-style-type: none"> <li>• 60% of dairy farmers are receiving little benefit. Successful programs for which Dairy Australia could claim benefit, enjoy broader government funding for these activities.</li> <li>• Dairy Australia claims that most of the levy money goes into direct services to farmers.</li> <li>• Farmer Power would suggest that Dairy Australia should charge a fee instead of collecting a compulsory levy on all farmers.</li> <li>• The Productivity Commission has also previously seemed to support a voluntary levy.</li> </ul>	<p>Refer section 1.2 &amp; 2.10</p> <p>In addition to the services that benefit all dairy farmers in the industry e.g. dairy marketing and trade promotion, Dairy Australia encourages dairy farmers to utilise services provided to benefit their business.</p> <p>As required under the Funding Agreement with the Commonwealth, R&amp;D investment should reflect a mix of long and short term, high and low risk investments.</p>
2.19a	Voting (Farmer Power p.3)	<p>Group A membership suggests only around 40% of Group A members can vote on Dairy Australia matters (including the levy poll). It is also our suggestion that group b member processors should not be involved at all.</p> <p>Dairy farmers assume they have voting rights, but only about 40% were on the voting register or able to sign from signatures collected. This makes the levy poll unachievable</p>	<p>Current Group A members represent 63% of active dairy enterprises and these members can vote on director elections and changes to the Constitution. Group B members have no voting rights.</p> <p>All levy payers have the opportunity to vote in the levy poll.</p> <p>All voting decisions are achievable requiring a majority of votes from those that are entitled to and lodge a vote i.e. 50% of voters who participate in the voting process.</p> <p>For AGM resolutions such as director elections, this means a majority of those who have signed up as members and cast a vote.</p> <p>For the levy poll, this also requires a majority of votes from levy payers who vote on the poll.</p> <p>In both cases a decision is passed in favour if the majority of levy payers (for levy poll) or members (for AGM resolutions) who lodge a vote, vote in favour of the decision.</p>

## 2.2 UPDATE ON FUNDING AGREEMENT REQUIREMENTS

(f) Progress on implementing the recommendations from the most recent performance review

*The prior review concluded that Dairy Australia has met all its obligations under the Statutory Funding Agreement (2011 – 2016) and provided the following 4 recommendations for improvement:*

Recommendations	Description
Organisational culture	DA should continue its focus on improving the organisational culture, consolidating and building upon recent restructuring of the organisation including the leadership team and adopting some additional measures as suggested in this review.
Dashboard reporting	DA should continue its efforts to establish and report on a dashboard of key objective targets at strategic priority level to provide a clearer indication of overall organisational performance.
Ex-post evaluation	DA should continue to conduct ex-post evaluations of activities and communicate these results to levy payers using clear, simple messaging relevant to stakeholders, including the use of case-studies.
Benchmarking – marketing and promotional activities	DA should report publicly the benchmarked measures of its marketing and promotion activities against the results from prior years and continue to investigate how measures of marketing and promotion activities can be incorporated into the existing benefit/cost methodology for both ex-ante and ex-post assessment. Include in measures in the annual report.

## 2.2 UPDATE ON FUNDING AGREEMENT REQUIREMENTS

### (f) Progress on implementing the recommendations from the most recent performance review

Recommendations	Description
Organisational culture	Culture continues to be a high focus for DA. 2019 engagement survey recently completed. Restructuring occurred throughout FY 19 to embed a mix of farmer, scientific and corporate expertise to realise Dairy Australia's strategic priorities. Review of values to be undertaken incorporating engagement survey results. New performance management process has been agreed and is being rolled out across FY20.
Dashboard reporting	<p>Completed one year of quarterly dashboard reporting. This has translated into an Annual Performance Report for FY19 which is being published for the first time and contains the highlights and outcomes across DA's 13 key programs.</p> <p>As we move into FY20, we are maturing our quarterly reporting to adapt to the variety of projects that we do and have defined the following guiding principles:</p> <ul style="list-style-type: none"> <li>• Our performance will be measured through a combination of metrics that are quantitative and qualitative depending on the relevance in the area that is being measured</li> <li>• Metrics would be captured through various sources such as attendance, farmer surveys at different times of the year, detailed three-yearly project surveys, etc</li> <li>• Metrics will be measured using the relevant frequency – quarterly, bi-annual, annual, three-yearly, etc</li> </ul>
Ex-post evaluation	<ul style="list-style-type: none"> <li>• Completed external ex-post review of "International Market Support – China" – findings communicated internally to relevant stakeholders and will also be made available externally as part of the FY19 Performance Review</li> <li>• Guidelines laid down for nominating projects for ex-post reviews in FY20</li> </ul>
Benchmarking – marketing and promotional activities	Complete and embedded as part of BAU – quarterly reporting of marketing and promotional activities continues as part of BAU. Results continue to be included in annual report and performance report.

# DAIRY LEVY POLL PROCESS VOTE

## VOTER INFORMATION

### TO DETERMINE THE FUTURE OF THE DAIRY LEVY POLL PROCESS

This information will help dairy farmers make a decision on proposed changes to the Dairy Levy Poll process.

**VOTING CLOSES MIDDAY (AEDT)  
FRIDAY 27 NOVEMBER 2015**

## ACTION REQUIRED

All levy payers are eligible to vote.

You can complete the enclosed voting paper and either:

- post
- fax or
- scan and email

it to Computershare to be received by midday (AEDT), Friday 27 November 2015.

Alternatively, vote online at:  
[computershare.com.au/dairylevy2015](http://computershare.com.au/dairylevy2015)





19 October 2015



## **Fellow dairy farmers,**

The purpose of this letter is to ask you to vote on an important industry issue – changes to the Levy Poll process.

### **The issue**

After the significant cost of running the 2012 Dairy Levy Poll (\$750,000 in direct costs and diversion of industry resources over 15 months) the Dairy Australia Board agreed to review the Levy Poll process.

An independent Panel was appointed to consult widely with dairy farmers and industry and come up with recommendations for a better system. The Panel's report was presented to the Board of Australian Dairy Farmers (ADF) in August this year, where the recommendations were unanimously endorsed.

### **The recommendations**

The Panel's recommendations include that the Levy Poll process can and should be streamlined and less costly – that's what dairy farmers have said they want.

This would mean a system where a vote is only held **when a change** in the levy or its procedures is proposed. Currently a Levy Poll must be held at least every five years, irrespective of whether a change is proposed or not.

ADF supports the Panel's recommendations as these could deliver savings in excess of \$750,000 that can be directed to industry programs.

This proposal is not about removing accountability as there are mechanisms in place to ensure this.

### **Consultation with levy payers**

Consultation with levy payers has been taking place for a number of weeks, with information sessions held across dairying regions. For details on further sessions visit the Dairy Levy Poll Review website. A vote is also being run to provide a more formal response from levy payers. The information from the consultation is important to demonstrate industry support for the changes.

### **Where can I find more information?**

Contacting your local state dairy farmer organisation or visiting the website [dairylevypollreview.com.au](http://dairylevypollreview.com.au) are good places to start. The website features all the relevant information. It also explains the voting options and how to vote.

### **Voting**

**I urge you to consider what is best for our industry and cast a YES vote, as endorsed by ADF. Voting closes midday (AEDT) 27 November 2015.**

**YES** means supporting a process where a Levy Poll is held only when a change to the levy or its procedures is proposed.

**NO** means a Levy Poll every three to five years and the outlay of significant cost and time even if no change is needed.

**Noel Campbell**

*President Australian Dairy Farmers*



## VOTING PROPOSITION

Levy payers are asked to vote Yes or No, to adopt changes to the Dairy Levy Poll process as recommended by the Dairy Levy Poll Process Review.

## EXPLANATORY NOTE

**YES** means supporting a process where a Levy Poll is held only when a change to the levy or its procedures is proposed. Very simply, that means 'no change, no Levy Poll'.

The levy or the method of its application will be reviewed at least every five years and any proposed change will be assessed by an industry Levy Poll Advisory Committee (Advisory Committee).

The Advisory Committee will initially be constituted by an independent Chair, with two ADF representatives, two representatives from Dairy Australia and one from the Australian Dairy Products Federation, with discretion for a Department of Agriculture representative to attend as an observer.

In addition, every levy payer will have the opportunity to apply to join the Advisory Committee, with up to 10 levy payers to be selected by the initial members of the Advisory Committee, ensuring broad industry representation.

A Levy Poll will be held only if the Advisory Committee recommends a change to the rate or its procedures. The Advisory Committee will have the flexibility to determine what options are included on the voting paper including whether or not a zero option is included.

Levy payers may initiate a poll if they disagree with an Advisory Committee recommendation of no change, by bringing together a group of levy payers (who are Dairy Australia members) representing at least 15 per cent of levy votes.

In presenting a proposal, the 15 per cent group must detail the amount of the levy and/or the procedures they propose and the justification.

This would activate the holding of a General Meeting by Dairy Australia where a resolution to hold a Levy Poll would be voted on. If a simple majority of votes at that meeting favour a Levy Poll, a poll will be held. The proposal from the 15 per cent group must be included as a voting option. Other options can be included by the Advisory Committee.

**NO** means a Levy Poll will have to be conducted every three to five years, with the next Levy Poll due to take place by March 2017.

## ADF ENDORSED RECOMMENDATION

### IMPROVE the Levy Poll process

Vote **YES**, in favour of the changes to the Dairy Levy Poll process



## SUPPLEMENTARY INFORMATION

### Conducting the Vote

#### Department of Agriculture requirements

The *Levy Principles and Guidelines* published by the Department of Agriculture require that if there is a new levy, a change to an existing levy, or any other significant change that will directly affect levy payers, effective steps must be taken to inform all levy payers of the proposal. The Department must be satisfied that the levy proposal has been distributed for consideration by all levy payers and that there is demonstrable industry support for that proposal. A levy payer vote has been chosen as one of the mechanisms for industry to demonstrate its support for these changes.

#### The industry's role in assessing the proposed changes

The changes to the Levy Poll process are based on recommendations made by the Dairy Levy Poll Process Review, undertaken by an independent panel convened by the Board of Dairy Australia. The Review Panel comprised a combination of industry representatives and dairy levy payers, who were selected from those who responded to an industry wide invitation sent to all dairy levy payers to apply to be a member of the Panel. The Panel undertook extensive consultation as part of arriving at its recommendations, including seeking submissions from all dairy levy payers and dairy industry stakeholder organisations. Its recommendations were endorsed by the Board of ADF. The proposed changes have been raised at a range of industry meetings and forums, with levy payers being provided with opportunities to raise questions or concerns.

#### How to vote

You can complete the enclosed voting paper and either post, fax or scan and email this to Computershare, to be received by midday (AEDT) on Friday 27 November 2015. Alternatively, you can vote online at [computershare.com.au/dairylevy2015](http://computershare.com.au/dairylevy2015)

An independent Returning Officer will provide oversight for the vote.

#### The result of the vote

After the close of voting, the Returning Officer will count the votes and declare the result, based on the votes cast. This result will be included in the information provided to the Minister for Agriculture, to demonstrate support for the proposed changes to the Dairy Levy Poll process.

#### Changes to relevant legislation

If the changes to the Levy Poll process are supported by the industry and the Minister for Agriculture determines that they should be implemented, amendment of the *Dairy Produce Act 1986 (Cth.)* and the *Dairy Produce (Dairy Service Levy Poll) Regulations 2006 (Cth.)* will be required before the changes take effect.

#### Further questions

If you have questions on the proposed changes, please contact Emma Braun on (03) 9694 3719 or email [enquiries@dairylevypollreview.com.au](mailto:enquiries@dairylevypollreview.com.au) For questions concerning the vote, contact Danielle Hine at Computershare on (03) 9415 5261 or email [dairylevy2015@computershare.com.au](mailto:dairylevy2015@computershare.com.au)



3 December 2015

The Hon. Barnaby Joyce M.P.  
Minister for Agriculture and Water Resources  
Parliament House  
ACT 2600

Dear Minister,

**RE: Streamlining the Dairy Levy Poll Process**

As you are aware, Australian Dairy Farmers (ADF) and Dairy Australia (DA) are jointly proposing changes to the dairy levy poll process to ensure it is streamlined, less costly and reduces the regulatory burden on dairy farmers.

The dairy industry has supported these changes and now ADF and DA seek your support for the changes proposed. We seek your endorsement of the necessary amendments to the *Dairy Produce Act 1986* (Cth.) and the *Dairy Produce (Dairy Service Levy Poll) Regulations 2006* (Cth.).

For the past three months, ADF has led a broad national consultation program with levy payers and the wider industry. At the same time, the Department of Agriculture and Water Resources has been regularly updated with progress reports from this program.

**1. Background to proposed changes**

In 2014, the Board of DA appointed an independent panel, the Dairy Levy Poll Process Review Panel, to review the dairy levy poll process. This Panel, comprised of dairy industry representatives and dairy levy payers, was led by an independent Chair, John Lawrenson. The Department of Agriculture and Water Resources participated as an observer in the proceedings of the Panel.

This 2014 review came about following feedback on the 2012 dairy levy poll and the 2013 Constitutional Review which highlighted the expectation that the levy process be streamlined to save cost, time and resources.

Following research and a consultative process, the Panel made certain recommendations regarding changes to the dairy levy poll process. Those recommendations were presented to, and endorsed by, the Boards of DA and ADF respectively. The Panel's full report (the Report), forwarded to you by letter dated 12 August 2015 summarises the recommendations at pages 4–6.

The most significant recommendation of the Report was that the dairy levy poll process can, and should, be streamlined and less costly. The Report proposed a system where a levy poll is only held when a change in the levy or its procedures is proposed. Currently a dairy levy poll must be held at least every five years, irrespective of whether a change is proposed or not.

**2. The consultation program and response**

In mid-September 2015, ADF (with the support of the State Dairy Farming Organisations) embarked on a program of wide consultation with dairy levy payers regarding the proposed changes to the dairy levy poll process.

Details of that consultation process and the conclusions drawn from it are provided in a separate briefing document. In summary, the consultation and communications included:

- an information pack sent to all 6288 Australian dairy levy payers, providing information regarding the proposed changes;
- presentations regarding the proposed changes at 38 industry forums and meetings, with a total attendance of 1221 dairy farmers;

- a dedicated website which served as a repository of material relating to the proposed changes, including a video message, Q&As regarding the changes, and mechanisms on the website for feedback and interaction;
- a phone number to call should dairy levy payers have questions regarding the proposed changes;
- regular updates to all six state dairy farmer organisations, and email updates to dairy farmer members of state farmer organisations and ADF, including approximately 12 pieces of newsletter communication;
- one-on-one telephone conversations with 785 dairy levy payers checking that the information provided was adequate and whether there were any questions about the proposed changes or the voting process;
- 64 pieces of media coverage with a total estimated cumulative reach of 4,828,349, and additional social media amplification via a total of 16 posts (3 on Facebook and 13 on Twitter), with a further total estimated cumulative reach of 54,163;
- advertisements in 11 different regional publications; and
- a vote on the proposed changes, with the opportunity to vote online or by completing a voting form and emailing, faxing or returning it by post, in a vote administered by an independent third party, Computershare, and an independent returning officer, Deloitte Touche Tohmatsu.

Every Australian dairy levy payer was contacted at least once through this consultation and provided with opportunities to provide feedback on the proposed changes, including by formal vote.

We are pleased to report that dairy farmer sentiment is very strongly in favour of the recommendations. Our opinion is based on the experience, themes, and feedback received from the overall consultation program and verified by the vote that concluded in late November. A total of 24.70% of valid levy votes were received with 89.95% of votes in favour of changing the dairy levy poll process. Computershare has indicated that based on their experience, the response rate is overwhelming and an excellent indication of the sentiments of the voting population.

### **3. Timing considerations for changes prior to next mandated levy poll**

Under the *Dairy Produce Act 1986* (Cth.) and the *Dairy Produce (Dairy Service Levy Poll) Regulations 2006* (Cth.) the last date that a new levy recommendation could be made is 6 April 2017. Working back from this date, and acknowledging that preparation for the 2012 levy poll commenced eighteen months prior, Dairy Australia would need to commence work early next year on initial steps. This includes convening an industry based advisory committee, and providing it with sufficient time to commission independent research and analysis of dairy industry conditions to inform consideration of the options to be included on the levy poll ballot paper. If a 2017 poll is to proceed, these steps will need to be well advanced by the second quarter of 2016.

We believe clear support for a simpler, less costly and more efficient dairy levy poll process has been demonstrated and supports amending the current Act and Regulations. We seek your response on an urgent basis regarding the possible timing of any changes so that the industry can commence planning for a 2017 poll if needs be.

Yours sincerely,

**Geoff Akers**  
**Chair**  
**Dairy Australia**

**Simone Jolliffe**  
**President**  
**Australian Dairy Farmers**